



COMMUNITY DEVELOPMENT DEPARTMENT

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PLANNING COMMISSION MEETING MINUTES

SPECIAL MEETING

DECEMBER 2, 2003

PRESENT: Acevedo, Benich, Escobar, Lyle, Mueller

ABSENT: Engles, Weston

LATE: None

STAFF: Planning Manager (PM) Rowe, Senior Engineer (SE) Creer, Associate Planner (AP) Tolentino and Minutes Clerk Johnson. Deputy Director of Public Works/Engineering (DDPW/E) Bjarke was present in the audience.

: Chair Mueller called the meeting to order at 7:00 P.M.

DECLARATION OF POSTING OF AGENDA

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

OPPORTUNITY FOR PUBLIC COMMENT

Chair Mueller opened the public hearing.

Chair Mueller, in requesting SE Creer to lead the flag salute, asked him to provide an overview of his job responsibilities to the City; SE Creer graciously responded.

With no one present wishing to address matters not appearing on the agenda, the public hearing was closed.

MINUTES:

NOVEMBER 11, 2003 COMMISSIONERS ACEVEDO/ESCOBAR MOTIONED TO APPROVE THE NOVEMBER 11, 2003 MINUTES AS PRESENTED. THE MOTION CARRIED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ENGLES, WESTON

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NEW BUSINESS:

**1) DAA-05:
MALAGUERRA-
ANSUINI/MANCIAS**

A request to amend the development agreement for a 13-unit Measure P project to allow for a one-year extension of time for the construction of the six, Phase II units. The subject site is located along the south side of Malaguerra Ave in the R-1(20,000)/RPD Zoning District.

PM Rowe presented the staff report, noting the extension is requested because of on-going efforts for resolution of off-site improvement issues. "This will be a one year extension for Phase II of the project," he explained. Noting that the staff report indicates support of the extension, but for a shorter period of time, PM Rowe said based on information presented to the Planning Department, a 12-month extension is not justified.

Commissioner Benich directed attention to the letter from the applicant, questioning the mention of 'direction of street changes' and asking for clarification. SE Creer explained the concerns of the residents living south of Malaguerra regarding the streets, noting that the majority of the questions related to where the road would be going in front of those properties. SE Creer stressed that the Department of Public Works is continuing to work on the matter to ensure positive outcome. Commissioner Lyle asked if the design of the streets has been resolved? SE Creer responded affirmatively.

Commissioner Acevedo called attention to reference in the applicant's letter of 'hardship', noting that the staff report offered comment on 'financial hardship' and wondering what the issue really was? AP Tolentino said that communication with the applicant has clearly indicated concerns of 'financial hardship'. Commissioner Acevedo stated he would not like to have the project slowed down. AP Tolentino said the concerns of the Planning Department are centered on the 'down time' when evidence of work was not clear.

Chair Mueller opened the public hearing.

Julian Mancias, 1155 E. San Martin Ave., San Martin, said he represents the Mancias Family, who are involved in this project as well as another principal, Mr. Sweeny. Mr. Mancias referred to the map when indicating the parcels under consideration, and announcing that he really wants the extension to complete the project. "I want to let the Commissioners know that my goal is, and has been, to produce quality homes in Morgan Hill" as he explained the delays which cause the Planning Department concern. Mr. Mancias does not want to overlap Phases 1 and 2, saying that he wanted to move forward with Phase 2 in June, 2004 as indicated in the revised Exhibit A.

Mr. Mancias asked Commissioner Acevedo to elaborate on the concerns he has. Commissioner Acevedo said his concern is with the staff recommendation that the extension be granted for eight months instead of the 12 requested. Mr. Mancias said he would certainly accept the 8 months, but would prefer the 12 as originally requested. Commissioner Acevedo said he was concerned that the overlap might prove troublesome.

Commissioner Lyle asked if the applicant is now actively constructing homes? Mr. Mancias responded he is doing so. Commissioner Lyle continued by asking if all the

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first seven units of the first phase would be underway before the next six are commenced? Mr. Mancias said he hopes to have the seven completed before June, 2004 but has concerns about the weather (rainy).

With no others present indicating a wish to address the issue, Chair Mueller closed the public hearing.

Commissioner Acevedo said it appears the applicant is seeking 'breathing room'. Commissioner Lyle said that eight months may not be enough and suggested possible alternative dates for Exhibit A. Commissioner Benich said he agrees with the staff report. Chair Mueller suggested other compromise of dates may be in order.

COMMISSIONER ACEVEDO OFFERED RESOLUTION NO. 03-90, RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT AMENDMENT APPLICATION, DAA-00-05: MALAGUERRA-MANCIAS, WITH THE FOLLOWING MODIFICATIONS TO EXHIBIT A (PHASE II): ~~OCTOBER 1, 2003~~ JUNE 30, 2004 AND ~~DECEMBER 30, 2003~~ SEPTEMBER 30, 2004. COMMISSIONER BENICH SECONDED THE MOTION, WHICH PASSED WITH THE UNANIMOUS VOTE OF ALL COMMISSIONERS PRESENT; ENGLES AND WESTON WERE ABSENT.

2) DAA-02-07: SHAFFER-BAMDAD

A request to amend the development agreement for a 15-unit Measure P project to allow for a one-year extension of time. The subject site is located west of Hill Road, at the terminus of Shafer Ave. and Katybeth Way, north of Conte Way in an R-1(12,000)/RPD Zoning District.

AP Tolentino presented the staff report, explaining that the 1-year extension notice is for each of the phases of the project. She also noted that activity on the project has been confirmed for seven of the last twelve months, but not the full year.

Commissioner Lyle asked the status of the work commitment on Hill Road. SE Creer responded that the plans for improvement are underway. He continued that the commitment for improvements is on the opposite side of the road from the subject property. Commissioner Lyle expressed some concern that if the improvement site issues are not resolved, can other plans be put into place? SE Creer again responded that work in other areas is possible.

Chair Mueller expressed an opinion that the improvements planned for Hill Road are not directly needed for construction of the project under discussion. SE Creer noted that while that is true, there is concern that the City would be accepting proposed plans without finalization.

Chair Mueller said it would be possible to accept two separate bonds: one for the Hill Road improvements and another for the interior streets of the project. SE Creer said one problem would be if the improvements on Hill Road were to lag rather than experience speedy completion.

Commissioner Lyle asked if the Hill Road improvements could be tied to the completion date(s) of Phase II of the project.

SE Creer said that there are financial issues due to the tie up of construction. He also

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remarked that there is the possibility of tying the improvements to Phase II exclusively.

Chair Mueller said his concern is in trying to get the project moving and on schedule while the improvements are a stumbling block.

AP Tolentino called attention to the site review application saying that the applicant has indicated a new designer must be brought in so that has created further concern.

SE Creer reiterated that the developer has committed to improvements on the east side of Hill Road.

Chair Mueller asked about other projects where Fish and Game has been involved.

Chair Mueller opened the public hearing.

Rafi Bamdad, 13250 Piernez Road, Saratoga, explained he is the applicant and is asking for a one-year extension for Phase I and another one-year extension for Phase II. Mr. Bamdad vehemently disagreed with the staff report that there has been no action for five of the past twelve months. He cited the soils report; told of the Architect he hired who went out of business- and then in again; talks with SE Creer in the Public Works department, as well as PG&E contacts and working on the design of the homes, saying that certainly indicated on-going work had taken place during the five months in question. "I never stopped working or reporting," Mr. Bamdad insisted. "I may be held up for years because of Fish and Game; this has turned into a monster. I have needed to step outside of the thinking." He went on to tell of the size(s) of the lots and the proposed costs of the houses. Mr. Bamdad said that some of the issues involved include the recent caution of lenders in the area of on-going and new projects.

Commissioner Lyle asked if there was a possibility to 'decouple' the creek issues, and if so, how soon could the permits be pulled? (Mr. Bamdad asked for explanation of 'decouple' with Commissioner Lyle explaining.) Mr. Bamdad responded that he had to hire a new Architect. Commissioner Lyle continued by musing if the applicant could possibly be in position to start before 11 months from now, notwithstanding the creek issues. Mr. Bamdad said he could not because of the delay of the rainy season. Commissioner Lyle was joined by Chair Mueller in asking the applicant if he would be ready to start the project 11 months from now if the extension were granted? Mr. Bamdad denied the possibility, citing the soils report and reiterating concerns about the possibility of rainy weather. Commissioner Lyle asked when the grading of the soils might begin? SE Creer said the grading was dependent on the final map approval.

Mr. Bamdad continued that the lenders were not supporting the project until the final map approval. "There can be no construction loan until the permits are in order. Without the extensions requested, I will be wiped out. I need the two twelve month extensions."

Commissioner Benich asked for clarification of units of Phase I (7 units) and Phase II (8 units) and the extension times requested (one-year for Phase I and then following that, a one-year extension for Phase II). Mr. Bamdad explained that in talks with his lender, these extensions are essential.

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Commissioner Lyle commented that he thinks the letter from the bank which is included in the packet is conflicting.

Mr. Bamdad spoke of perhaps giving up the project.

Chair Mueller asked if Mr. Bamdad currently has an Architect? Mr. Bamdad responded he is in the process of obtaining a new one.

As there were no others present indicating a wish to speak to the matter, Chair Mueller closed the public hearing.

Chair Mueller commented there would be merit in maintaining the two-year program for this project. "He (the applicant) is asking for a one-year delay on the first phase then another year on the second phase. Perhaps it would be beneficial to grant that just to get the project up and running." Chair Mueller said a real concern is the presence of the frogs in the creek (as mentioned by the applicant), indicating that 'this issue may create real difficulty for the applicant'.

Commissioner Lyle said there may need to be some extension, suggesting maybe three months for Phase II. He went on to address the need for developments such as this to help meet ABAG requirements.

Commissioner Acevedo said that as currently stands, the commencement of work by January 30, 2005 may not be reasonable because of the rainy seasons.

Commissioner Benich indicated agreement with Commissioner Acevedo.

Commissioner Lyle said that 'if things move along' construction commencement times could be met.

Commissioner Acevedo cited the need for permits for grading. Commissioner Lyle thought the grading may not be tied to commencement of construction at the site.

Mr. Bamdad reiterated the concerns he had learned from the lenders.

During discussion, Commissioner Benich proposed acceptance of the resolution, citing the need to 'see where we are going'. Subsequently, **COMMISSIONER BENICH OFFERED RESSOLUTION 03-91, RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT AMENDMENT APPLICATION, DAA-02-07: SHAFER – BAMDAD, WITH THE FOLLOWING MODIFICATIONS TO SECTION 11 EXHIBIT 'B' (PHASE I): ~~SEPTEMBER 30, 2003~~ JUNE 30, 2004; ~~MARCH 31, 2004~~ DECEMBER 31, 2004; ~~JUNE 30, 2004~~ APRIL 30, 2005.**

Mr. Bamdad responded to questions from Commissioner Acevedo, saying six months between the phases is not enough time.

Commissioner Lyle and Chair Mueller said that minimal effort would be needed to commence construction, noting that the grading pads and laterals would be the major inclusions to be provided.

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Chair Mueller addressed Mr. Bamdad in saying that the Planning Commissioners understand his request. "We rarely even consider such a request as this, but we recognize the difficulties and acknowledge the need for the housing," he explained to the applicant. Mr. Bamdad indicated understanding and agreement.

Commissioner Lyle asked if the maker of the motion would accept the following modifications for Phase II: ~~March 31, 2005~~ *June 30, 2005*; ~~June 30, 2005~~ *October 31, 2005*. Commissioner Benich agreed. Thereupon, **COMMISSIONER LYLE SECONDED THE MOTION.**

Commissioner Lyle asked SE Creer if there is a need for flexibility for the improvements to Phase II? SE Creer said the language in Section 3 of the Resolution is fine.

THE MOTION CARRIED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ENGLES, WESTON

3) DAA-00-08: BERKSHIRE-SINGH

A request to amend the development agreement for a four-unit Measure P project to allow for a six-month extension of time. The subject site is located at the northeast corner of Hale Ave. and Llagas Rd in an R-1(7,000) Zoning District.

PM Rowe presented the staff report, noting that in June, 2003 a six month extension had been granted, and the request this evening represented the fifth request for an extension. PM Rowe reminded the Commission that at the last request, the applicant was strongly encouraged not to request further extensions. PM Rowe explained that the extended processing of the project is a result of the applicant's inability to provide the required bonds and insurance to record the final map. "There has been three months of inactivity. Consequently, if you wish to consider this extension, staff has suggested you contemplate a three-month extension instead of the six-months requested by the applicant," PM Rowe stated.

Commissioner Acevedo stated that it appears that the only reason the project has been slowed down is the lack of insurance. "The applicant says he has talked with Jack Dilles (City Finance Director/Risk Manager) and was told that he won't need insurance if he gets a General Contractor who carries insurance and the City Attorney has agreed with that stance," Commissioner Acevedo informed.

SE Creer clarified the insurance issue, noting that insurance is required for map recordation.

Commissioner Acevedo continued, asking if the City has represented to the applicant that insurance is not needed? SE Creer said that the applicant has had explanation of the type of insurance he must obtain, and that just today he brought in information regarding the insurance, but it is not complete.

Commissioner Lyle inquired regarding the second round of plan check comments which had been presented to the applicant in April. "Were there substantial concerns? And what response has been made?" AP Tolentino said there were fairly substantial concerns and the applicant has not responded to plan check comments.

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Chair Mueller opened the public hearing.

T.K. Singh, 305 Hazelton Ct., provided an overview of the project, speaking of the difficulty in obtaining the insurance he must have. "Just today, I was able to get some insurance from Lloyd's of London. I spoke with City officials. I am requesting the six months extension. I have been busy for those three months trying to resolve the issues regarding insurance. Those were not three months of 'inactivity'," Mr. Singh stated.

Commissioner Benich inquired if the proposed development consisted of detached or attached units? Mr. Singh said they were all detached. Commissioner Benich commented that he was only aware of insurance problems with the attached units. The applicant agreed.

Commissioner Lyle commented on what needed to be done for the plan check which had been sent to the applicant in April, indicating that there was 'nothing for the second plan check'. Mr. Singh said there was no second plan check because Public Works would not 'sign off'. Commissioner Lyle called attention to the response from AP Tolentino regarding the lack of response to the plan check. Mr. Singh insisted that there was nothing further to do. "The site plan has been approved, the Architect plans have been approved, and there is nothing to do."

AP Tolentino explained to the applicant that the plan check is from many departments, not just building.

With no others indicating a wish to speak to the matter, Chair Mueller closed the public hearing.

Discussion ensued as to the payments of the TDCs; and the lack of response to the plan checks.

Responding to a question from Chair Mueller, AP Tolentino said, "If the applicant works diligently, a round of plan checks could be resolved within four weeks."

Commissioner Acevedo returned to the insurance issue, with SE Creer enjoining that the insurance issue would be resolved when the applicant paid the fees and presented the necessary paperwork.

Commissioner Benich said that as much as the Commissioners want to have the homes in the project built, the applicant has come back time after time, and now is the time to 'draw the line in the sand' against abuses of the system.

Also discussed was the possibility of slowdown because of improvement work across the street, with Chair Mueller explaining the approvals for that work were depended on Santa Clara County. Chair Mueller asked what would happen to the allocations if the request for extension was denied? PM Rowe explained the allocations 'would go away and were not eligible to be returned to the pool of allocations for reassignment'.

Commissioner Lyle agreed, saying they would be lost.

Commissioner Acevedo asked about the staff recommendation for a three month extension. Chair Mueller and Commissioner Lyle said three months wouldn't work, there needed to be six months minimum. Commissioner Lyle noted that in requiring

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the permits to be pulled by December 30, it actually means December 20 because of the City furlough. Chair Mueller commented that even with the extension granted, the Commissioners were taking a chance that the units would ever be built.

Nari Singh, 305 Hazelton Ct., asked to speak.

With the concurrence of the Commissioners, Chair Mueller reopened the public hearing.

Nari Singh said that T.K. Singh has been working sincerely and (he) doesn't see how the work could progress faster.

Chair Mueller commented that this project has been given 2 – 3 extensions beyond what is normally allowed.

T.K. Singh asked to speak again, interjecting that he is not building an empire. He is a small developer trying to build four homes.

Chair Mueller closed the public hearing with the agreement of the Commissioners.

Commissioner Escobar said he appreciates the applicant is not trying to build an empire but didn't hear a real willingness to cooperate sequentially to provide information and supportive documentation the City needs.

COMMISSIONER ESCOBAR OFFERED RESOLUTION NO. 03-92a, RECOMMENDING DENIAL OF A DEVELOPMENT AGREEMENT AMENDMENT, DAA-00-08: BERSHIRE – SINGH.

Responding to a question from Commissioner Lyle, PM Rowe explained the matter would be heard by the City Council on December 17, 2003.

Commissioner Acevedo indicated concern that having read the materials presented and heard the testimony, there appears to be no reason for denial. "In actuality," he said, "there has not been inactivity, even without real production, but the applicant is still trying to move forward."

Commissioner Lyle said there is the problem that the applicant appears to ignore those elements of the plan check he chooses to. "Furthermore, we are three years beyond when activity should have taken place," he said, as he reiterated the record of events of the project.

COMMISSIONER LYLE SECONDED THE MOTION, WHICH PASSED WITH THE FOLLOWING VOTE: AYES: BENICH, ESCOBAR, LYLE, MUELLER; NOES: ACEVEDO, WHO CITED CONCERNS REGARDING THE REASON FOR THE EXTENSION REQUEST: TRAFFIC STUDIES IN THE AREA (HALE/LLAGAS CORNER INTERSECTION) RELATING TO [PROPOSED] CONSTRUCTION OF THE CATHOLIC HIGH SCHOOL, SOBRATO HIGH SCHOOL AND THE CARDEN ACADEMY AND PROBLEMS WITH OBTAINING INSURANCE; ABSTAIN: NONE; ABSENT: ENGLES, WESTON.

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Commissioner Escobar pointed out that in June, the applicant had been told there would be no further extensions and the applicant has been dealt with very fairly.

Chair Mueller explained the actions that the City Council could consider in this matter.

Commissioner Lyle reiterated the issues, telling the applicant that any new information which he could present to the City Council would probably be helpful to his cause. He also reminded that the City Council will hear the matter December 17, 2003.

4) SD-03-11/ DA-03-10: COCHRANE- COYOTE ESTATES

A request for approval of a 25-lot subdivision and development agreement for Phases 8 through 10 of the Coyote Estates development on a 7.2-acre site located on the north side of the intersection of Cochrane and Peet Roads, on both sides of Peet Road, in the R-1 12,000/RPD zoning district.

PM Rowe gave the staff report, noting the following changes to the Standard Conditions:

Page 1: I B: ~~two~~ three

2005 6 (per e-mailed agreement with the applicant)

Page 2: II B (add): text *or as recommended by the City Attorney's Office*.

Page 5: VII D (uncheck) work has been completed

Page 8 (and on to the top of page 9): XII A (delete)

and

the Development Agreement:

Page 10 s: There will be a 'trade-off' (credit) for excess public improvements per agreement with the Public Works Director (this is in response to a requirement/commitment of Measure P for improvements to adjacent properties owned by others in which the developer has an interest)

Commissioner Lyle asked about the park on Cochrane (it is still a requirement) and the road improvements (they are in place).

Commissioner Benich asked about Page 2: II B (add): text *or as recommended by the City Attorney's Office*. It was explained that the CC&Rs are already in place and the changes would be made only if they are out of compliance with State law. Otherwise, without the involvement of the City Attorney's office, the matter would have to be returned to the current homeowners, thereby creating potential financial burden to those owners. PM Rowe stated that some additional requirements have been effected by State law creating the need for adjustment, as well as the inclusion of updates resultant from actions by the City Council.

Chair Mueller opened the public hearing.

Dick Oliver, 1556 Morning Star, spoke on the CC&Rs, saying that if the City Attorney recommends change, it can be done in this way without returning to the HOA. Mr. Oliver discussed with the Commissioners the BMRs for the project, saying they represented a major problem as the agreements are now written. "With 156 units, we will be providing a total of 15 BMRs," he said in explaining the upcoming phases of the project. "At the time of completion, we will need to have in place a cumulative number of two in this phase, not three as indicated in the standard agreement. Mr. Oliver further explained that there is also an issue with the market rate units in relation

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to the BMR locations, thus leading to explanation of the locations of the BMRs, as well as the set-backs on identified lots.

Chair Mueller asked Mr. Oliver to clarify exactly what he is asking for.

Mr. Oliver said that in the 3rd phase, one lot would be dropped, the .5 of a split lot would be added. He explained where the market rate and BMR unit would be located. Mr. Oliver said that he wants to make the correction as a note to the tentative map, indicating the adjustment to Phase 10. "The BMRs in phases 8-9-10 will adjust in (final) phase 10," he explained. As Mr. Oliver spoke regarding item g, page 10, of the Development Agreement, he indicated that work was done in phase 1, with the offsite improvement requirement commitment. "I'm bringing this up now," he said, "because of the issue of excess costs in future Measure P cycles."

Chair Mueller said that historically the Commissioners have allowed flexibility to the developers in similar matters.

Mr. Oliver said his concern is a commitment to do the work. "I don't want to get in this position because of an interest in other properties. I don't want my obligation shifted to another project whereby I may not have an interest."

With no one else present to address the matter, the public hearing was closed.

Commissioner Lyle clarified the relationship of the moderate rate units in the project, referencing the two units with the other .5 unit installation in a future phase. "If the Measure P update passes," Commissioner Lyle said, "there may be other units available and that would necessitate a map revision. Discussion ensued regarding improvements, using the ~~to~~ Lawrence property *as an example*, and the potential for credit being given for future ~~projects~~ *phases*."

COMMISSIONER ESCOBAR OFFERED RESSOLUTION NO. 03-93, APPROVING A 25 LOT SINGLE-FAMILY RESIDENTIAL SUBDIVISION ON A 7,215 ACRE PORTION OF TWO PARCELS LOCATED BETWEEN COCHRANE ROAD AND EAGLE VIEW DRIVE ON PEET ROAD, WITH THE FOLLOWING MODIFICATIONS TO THE STANDARD CONDITIONS:

Page 1: I B: ~~two~~ three

2005 6 (per e-mailed agreement with the applicant)

Page 2: II B (add): text *or as recommended by the City Attorney's Office*.

Page 5: VII D (uncheck) work has been completed

Page 8 (and on to the top of page 9): XII A (delete)

COMMISSIONER LYLE SECONDED THE MOTION WHICH CARRIED WITH THE UNANIMOUS VOTE OF ALL COMMISSIONERS PRESENT; ENGLS AND WESTON WERE ABSENT.

COMMISSIONER ESCOBAR OFFERED RESOLUTION NO. 03-94, RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT APPLICATION DA-03-10 FOR APPLICATION MP-02-14: COCHRANE-COYOTE ESTATES, WITH THE FOLLOWING MODIFICATION:

Page 8 M(iii) [add]: .5 unit will carry over to the next Phase.

Page 10 g: There will be a 'trade-off' of improvement areas per agreement

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with the developer

COMMISSIONR ACEVEDO SECONDED THE MOTION, WHICH CARRIED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ENGLES, WESTON

Note: Items 5 and 6 were presented and addressed concurrently because of the linkage of the two.

5) GPA-03-06: A request to change the general plan land use designation on a .30 acre portion of property located on the northeast corner of the intersection of Central Ave. and
CENTRAL-SOUTH McLaughlin from Multi-Family Medium to Multi-Family Low.
COUNTY HOUSING

6)ZA-03-02/SD-03-01/ A request for approval of a precise development plan for an 18 unit single family
DA-03-02: attached development on a 2.17 acre site located on the east side of McLaughlin Ave.,
MCLAUGHLIN- north of Central Ave and west of the Union Pacific railroad tracks. Also requested is
JONES the approval of a five lot subdivision and development agreement on a .67 acre portion of the site. The zoning on the project is R-2 3,500 and R-3; Single family low & medium density.

PM Rowe presented the staff report, giving an overview of the property, the plan(s) previously presented by Mr. Jones, the subsequent sale to South County Housing, and an update to the currently presented plan(s). PM Rowe explained the change in the site plan to eliminate future housing near the railroad tracks, replacing the dwellings with open space.

Indicating current changes, PM Rowe directed attention to the staff report, pages 5 and 6, wherein the variations from the R-2 3,500 development standards required through the RPD process were listed. It was noted that the proposed development will enhance the area in which it is proposed by design, building arrangement, open space, and landscaping. PM Rowe pointed out that the staff is recommending five modifications in the development of the RPD and those five are listed on page 6 as well.

PM Rowe explained the effect on lot 16 with the front lot line adjustment upward from the required 15-feet, as he responded to a question from Commissioner Benich.

Commissioner Lyle questioned the proposed language for allowing granny units? PM Rowe explained this would be an addition to Section 8 of Resolution No. 03-96, which would designate lots 1 and 2 as having the capability of granny units at these locations, if the R-2 regulations are amended to allow granny units with single-family detached dwellings.

Examination turned to Resolution No. 03-97, Standard Conditions for consideration of the following:

Page 7 H 5 uncheck

Page 8 L 1 interior *and exterior* (45) 50 for interior bedrooms and 55 for all other interior spaces

Commissioner Acevedo noted that a couple of letters in opposition had been received. He said that one letter writer owned a big metal building at the end of Central Avenue

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and it looks like there may be some encroachment into that building by this project .

PM Rowe explained the lot lines and placement of buildings and parking in relation to neighboring properties.

Chair Mueller said he has talked to the property owner/letter writer and it appears there was misunderstanding about the proposal.

Chair Mueller opened the concurrent public hearings for agenda items 5 and 6.

Jan Lindenthal, representing South County Housing, said the agency appreciates the efficient way Planning staff cooperated with them. Ms. Lindenthal assured Commissioners that agency staff have met with the neighbor who indicated concern.

Ms. Lindenthal said that page 2, Resolution No. 03-96 needed correction, as lot 3 will have a 13-foot backyard so that 10–12-feet will be retained in open space opposite the triplex unit to the east. Commissioner Lyle asked if lot 1 will still have 15-feet of open space in the rear yard? (No)

Michael Palza, architect for South County Housing, 636 4th St., South San Francisco, explained the set backs, which he said on lot 3 is 10-feet tapering to 13-feet. There will be a need to shift the unit 3-feet forward on the adjacent lot, to create a 15 ft. rear yard, he said, and went on to explain the effects of that shift on other lots in the project and the reduction of open space next to the railroad tracks. Discussion ensued regarding the visual effects of the project and the effects on other lots of minor site design changes.

Ms. Lindenthal expressed concern regarding the proposed elimination of granny units in the project, saying she did not understand the change. PM Rowe responded that inclusion of the granny units would be a violation of current zoning. He further explained the requirements of an RPD, saying granny unit inclusion would require an amendment to Chapter 18.14 and Chapter 18.55 of the Municipal Code.

Ms. Lindenthal asked for consideration for change to Schedule B of the development agreement as follows:

Final Map Submittal ~~4-22-04~~ 3-31-04
Building Permit Submittal ~~3-15-04~~ 5-15-04
Obtain 5 building permits ~~6-01-04~~ 8-01-04

Ms. Lindenthal said South County Housing wants to commence construction as soon as they can pull the permits. Responding to questions, Ms. Lindenthal indicated that the units will be split:

<u>Phase I</u>	<u>Phase II</u>
3 market rate	3 moderate rate
3 moderate rate	3 medium rate
No low or very low	3 low rate units

Commissioner Acevedo asked about the placement of the granny units? Ms. Lindenthal responded they are planned for over garages and will not contain plumbed kitchens. Discussion then was had regarding a possible time frame for changes to the

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General Plan/Municipal Code. Commissioners felt it would be better to consider zoning changes and other potential changes simultaneously.

Commissioner Lyle quoted staff as saying the project provides plenty of parking [4 spaces required; 16 are available]; however, other Commissioners agreed that a map should be provided which would clearly indicate the location of all parking spaces. There was discussion regarding the 'lost' parking spaces with the redesign of the area near the railroad.

Having determined, by asking twice, that no others in attendance wished to speak to agenda items 5 and 6, Chair Mueller closed the public hearing(s).

Chair Mueller commented that it would be reasonable to pursue the idea of having 25% R-1 units in an R-2 zone, and certainly it would be logical to permit granny units as he reminded that matter would be heard by the City Council prior to map submittal.

COMMISSIONERS ESCOBAR/LYLE MOTIONED TO ACCEPT THE MITIGATED NEGATIVE DECLARATION AS WRITTEN. THE MOTION PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; ENGLES AND WESTON WERE ABSENT.

COMMISSIONER LYLE OFFERED RESOLUTION NO. 03-95, RECOMMENDING APPROVAL OF GENERAL PLAN AMENDMENT, GPA-03-06: CENTRAL - SOUTH COUNTY HOUSING REQUESTING, APPROVAL OF A .30 ACRE AREA OF A .69 ACRE PARCEL LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF CENTRAL AVE. AND THE RAILROAD, CHANGING THE LAND USE DESIGNATION FROM MULTI-FAMILY MEDIUM TO MULTI-FAMILY LOW. THE MOTION WAS SECONDED BY COMMISSIONER ESCOBAR AND CARRIED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ENGLES, WESTON

COMMISSIONER LYLE OFFERED RESOLUTION NO. 03-96, RECOMMENDING APPROVAL OF ZONING AMENDMENT ON A .30 ACRE AREA OF APN 726-24-023, CHANGING THE ZONING DESIGNATION FROM R-3 TO R-2/RPD AND APPROVAL OF A RESIDENTIAL PLANNED DEVELOPMENT OVERLAY AND PRECISE DEVELOPMENT PLAN FOR A 16 UNIT R-2 (3,500)/RPD MULTI FAMILY LOW DEVELOPMENT LOCATED ON THE EAST SIDE OF McLAUGHLIN AVENUE, NORTH OF CENTRAL AVE.

The set-back issues were revisited as part of the discussion. PM Rowe said that if the shifting of units is to provide more open space, then the unit on lot three will be moved forward, with lot four unit being moved forward as far as possible, yet retaining the setback which are slightly less than the requirements. Discussion ensued which marked the apparent favor of having the addition of secondary units in the development following changes in the General Plan/Municipal Code, and permitting R-1 size lots in an R-2 zoning district. Commissioners agreed that the precise map may be submitted pending code change approval [this may be accomplished by a notation on the map permitting the action subject to compliance with future Code amendments relating to secondary units]. **COMMISSIONER ESCOBAR**

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SECONDED THE MOTION, WHICH PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; ENGLES AND WESTON WERE ABSENT.

COMMISSIONER ESCOBAR OFFERED RESOLUTION NO. 03-97, APPROVING A 5-LOT MULTI-FAMILY LOW RESIDENTIAL SUBDIVISION ON A .76-ACRE SITE, LOCATED ON THE EAST SIDE OF McLAUGHLIN AVENUE, NORTH OF CENTRAL AVE., WITH THE FOLLOWING MODIFICATIONS: (STANDARD CONDITIONS) PAGE 7 – ELIMINATE H5; PAGE 8 L 1 SUBSTITUTE LANGUAGE FROM THE MITIGATED NEGATIVE DECLARATION. THE MOTION WAS SECONDED BY COMMISSIONER BENICH AND CARRIED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; ENGLES AND WESTON WERE ABSENT.

COMMISSIONER ESCOBAR OFFERED RESOLUTION NO. 03-98, WHICH WAS SECONDED BY COMMISSIONER LYLE, RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT, DA-03-02: McLAUGHLIN-JONES, WITH THE FOLLOWING MODIFICATIONS: EXHIBIT A PAGE 7 H (ii) ~~3,000~~ 1,500; PAGE 7 K CHANGE TO SUBSTITUTE STANDARD BMR LANGUAGE; NOTATION WAS MADE THAT THE PROJECT WOULD PROVIDE 4 (FOUR) MARKET RATE UNITS, 1 (ONE) LOW BMR AND 2 (TWO) MODERATE RATE UNITS. ALSO INCLUDED IN THE MOTION WAS MODIFICATION TO EXHIBIT B AS FOLLOWS:

FINAL MAP SUBMITTAL ~~1-22-04~~ 3-31-04

BUILDING PERMIT SUBMITTAL ~~3-15-04~~ 5-15-04

OBTAIN 5 BUILDING PERMITS ~~6-01-04~~ 8-01-04

THE MOTION WAS PASSED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ENGLES, WESTON.

Announcement was made that difficulties were being experienced with the audio tape; reliance may be on the video.

**7) ANX-03-04/
USA-03-05/
GPA-03-05/ZA-03-17:
BURNETT-MHUSD
SOBRATO HIGH
SCHOOL**

A request to annex and amend the Urban Growth Boundary and Urban Service Area for three parcels on the north side of Burnett Avenue east of Monterey Road totaling 27.8 acres. A General Plan amendment changing the land use designation from Rural County to Public Facilities with a zoning designation of Public Facilities is proposed for parcels 725-01-012 and 013. A zoning designation of R1-7,000 is proposed for parcel 725-01-021.

Before commencement with the item, Chair Mueller announced he is a member of the Bond Oversight Committee for the High School; it has been determined previously this is not a conflict of interest.

PM Rowe gave the staff report. Actions tonight will be forwarded to LAFCO for approval. Referring to the displayed map, PM Rowe explained the location of the project, noting that the athletic fields will be within the boundaries of the City of San Jose.

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Commissioner Benich asked for further clarification of the juxtaposition of the City's, San Jose's, and the County's boundaries. PM Rowe presented the explanation.

Commissioner Lyle said in Resolution No. 03-99 it appears that the matter is being treated as a single annexation. As he called attention to #3 on page 2 and #7 on page 2, Commissioner Lyle pointed out that if it is treated as a single property, there is cause for concern if are code violations on the R-1 lot are not correctable. PM Rowe explained the corrective measures that would be required should a predicament arise. He continued that City staff does not view this as a problem.

Commissioner Acevedo question the water availability and plumbing necessary for the athletic fields being located in San Jose's boundaries. School representative, Bonnie Branco was present and stated the location and availability of wells for service was being researched. "We do intend to 'hook up' to the City for the fields," Ms. Branco stated. Commissioner Acevedo continued that he was aware that San Jose official have been clear that they do not want Morgan Hill services encroaching onto their site. PM Rowe informed that a service agreement is being worked out which will permit water service and parking to the fields.

SE Creer spoke on the abandoned City water well on Burnett Avenue which is proposed to be privatized and used for watering the fields.

Chair Mueller opened the public hearing.

With no one present to address the matter, Chair Mueller closed the public hearing.

COMMISSIONER ESCOBAR OFFERED RESOLUTION NO. 03-101, RECOMMENDING APPROVAL OF GENERAL PLAN AMENDMENT, GPA-03-05: BURNETT-MHUSD SOBRATO HIGH SCHOOL AMENDING THE LAND USE DESIGNATION ON TWO PARCELS TOTALLING 27.1-ACRES LOCATED ON THE NORTH SIDE OF BURNETT AVE. APPROXIMATELY 1099 FEET EAST OF MONTEREY RD. FROM RURAL COUNTY TO PUBLIC FACILITY AND RECOMMENDING APPROVAL OF AN AMENDMENT TO THE URBAN GROWTH BOUNDARY LOCATION TO INCLUDE 27.8-ACRES ON THE NORTH SIDE OF BURNETT. COMMISSIONER ESCOBAR SECONDED THE MOTION, WHICH PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ENGLES, WESTON.

COMMISSIONER LYLE OFFERED RESOLUTION NO. 03-100, RECOMMENDING APPROVAL OF APPLICATION USA-03-05: BURNETT-MHUSD SOBRATO HIGH SCHOOL, ALLOWING FOR THE INCLUSION OF 27.8 ACRES LOCATED ON THE NORTH SIDE OF BURNETT AVENUE EAST OF MONTEREY ROAD IN THE CITY'S URBAN SERVICE AREA. THE MOTION WAS SECONDED BY COMMISSIONER ESCOBAR AND CARRIED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ENGLES, WESTON.

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COMMISSIONERS LYLE/ESCOBAR MOTIONED APPROVAL OF RESOLUTION NO. 03-102, RECOMMENDING APPROVAL OF A ZONING AMENDMENT FROM COUNTY A-20 TO PUBLIC FACILITIES FOR APNS 725-01-012 & 013 AND FROM COUNTY A-20 TO R1-7,000 FOR APN 725-01-021 FOR APPLICATION ZA-03-17: BURNETT-MHUSD SOBRATO HIGH SCHOOL. THE MOTION PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; ENGLES AND WESTON WERE ABSENT.

COMMISSIONER LYLE OFFERED RESOLUTION NO. 03-99, RECOMMENDING APPROVAL OF THE ALTERATION OF THE BOUNDARIES OF THE CITY OF MORGAN HILL BY ANNEXATION THERETO OF CERTAIN TERRITORY WITHDRAWAL OF SAID TERRITORY (APNs 725-01-021, 031, AND 021) FROM THE SOUTH SANTA CLARA COUNTY FIRE PROTECTION DISTRICT. COMMISSIONER ESCOBAR SECONDED THE MOTION, WHICH CARRIED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ENGLES, WESTON.

ANNOUNCEMENTS: PM Rowe reported that the City Council overturned the Commission decision which had approved placement of the Generations Foursquare Church in the Heritage Business Park. He noted that a number of businesses located in the Park had indicated objection to the proposal.

The Council accepted for filing the RDCS 3rd Quarter Report.

The Council concurred with the Commission's approval of the subdivision amendment for Cochrane – Mission View Drive.

Upcoming at the Council meeting will be the subdivision/zoning matters for Watsonville Road/South County Housing on December 17 (this item was sent to the Council on a split vote).

ADJOURNMENT: There being no further business to come before the Commission, Chair Mueller adjourned the meeting at 10:17 p.m.

MINUTES RECORDED AND PREPARED BY:

JUDI H. JOHNSON, Minutes Clerk